RECENT CASES

CARRIERS—CONTRIBUTORY NEGLIGENCE—QUESTION OF FACT—ALIGHTING FROM STREET CAR.—BURKES V. NORTHERN TEXAS TRACTION CO., 185 S. W. (TEX.) 428. The plaintiff while standing on the step of a street car waiting for it to stop was thrown therefrom by a sudden jolt. He sued to recover for the resulting personal injuries. *Held,* that the plaintiff's standing on the step did not constitute contributory negligence as a matter of law and the refusal of the trial court to submit to the jury the question whether the operatives of the car were negligent in causing it to jolt was error.

Contributory negligence has been defined as such negligence on the part of the plaintiff as helped to produce the injury complained of. *Akin v. Bradley Eng. & Co.,* 51 Wash. 658. A right of recovery for personal injuries is not defeated by the fact that the plaintiff's own act or conduct contributed to the injury unless such act or conduct was negligent. *City of Wyandotte v. White,* 13 Kan. 191. Contributory negligence is generally a question of fact for the jury, unless no recovery could be had upon any ivew, which could be properly taken of the facts. *Gentzkow v. Portland R. Co.,* 54 Or. 114; *Illingsworth v. Boston Electric Light Co.,* 161 Mass. 583. Experience would seem to justify the court, in arriving at the conclusion that standing on the step of a street car awaiting to alight is negligence only under particular circumstances which should be determined by a jury.

S. F. D.

CARRIERS—DELIVERY—NECESSITY OF NOTICE.—MATTHEWS ET AL. V. ST. LOUIS, I. N. & S. RY., 185 S. W. (ARK.) 461.—The owner of a cotton gin, located on a spur track, was accustomed to notify the conductor of a freight train when the car, placed there by him, was loaded, and to receive from him a receipt for contents of car. After loading, but before notice was given to the conductor, the car was burned. *Held,* company was not liable as a common carrier, until notice was given. McCullough and Kirby, J.J., *dissenting.*

In order for the liability of a common carrier to attach, there must be delivery for immediate transportation. *Gulf, Colorado & Santa Fe R. R. Co. v. S. T. Trawick,* 80 Tex. 270. It is not for immediate transportation if anything remains to be done by consignor before goods can be shipped, and in such case the liability of the company is that only of a warehouseman. *Dixon v. Central of Georgia Ry. Co.,* 110 Ga. 173. Where goods are delivered to a common carrier to await further orders from the shipper before shipment, the former is only liable as warehouseman, while they are so in his custody. *Edward J. O'Neill v. N. Y. Central & Hudson River R. R. Co.,* 60 N. Y. 138. The parties may agree as to what will constitute delivery for immediate transportation. *Ga. Southern & Florida Ry. Co. v. Marchman,* 121 Ga. 235. Express notice is not necessary, where